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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CENTER FOR BIOLOGICAL
DIVERSITY, a non-profit corporation;
SIERRA CLUB, a non-profit corporation;
and PUBLIC EMPLOYEES FOR
ENVIRONMENTAL RESPONSIBILITY,
a non-profit corporation,

Plaintiffs,

v.

BUREAU OF LAND MANAGEMENT

Defendant,

and,

HIGH DESERT MULTIPLE USE
COALITION, DESERT VIPERS
MOTORCYCLE CLUB, SAN DIEGO
OFF-ROAD COALITION,
CALIFORNIA ASSOCIATION OF 4-
WHEEL DRIVE CLUBS, and THE
BLUERIBBON COALITION,

Defendant-Intervenors

Case No: C-00-0927 WHA (JCS)

STIPULATION AND PROPOSED
ORDER CONCERNING ALL FURTHER
INJUNCTIVE RELIEF

WHEREAS, Plaintiffs, Center for Biological Diversity, et al. ("the Center") filed this action on March 16, 2000, alleging that the federal defendant, Bureau of Land Management ("BLM") was in violation of Section 7 of the Endangered Species Act ("ESA") by failing to enter into formal consultation with the U.S. Fish and Wildlife Service ("FWS") on the effects of the adoption of the California Desert Conservation Area Plan, as amended, ("CDCA Plan") on threatened and endangered species. 16 U.S.C. § 1536(a)(2);

WHEREAS, in a Stipulation approved by the Court on August 25, 2000, BLM acknowledged that because activities authorized, permitted, or allowed under the CDCA Plan may adversely affect threatened and endangered species, Section 7(a)(2) of the ESA requires BLM to consult with FWS to

1 insure that its adoption and implementation of the CDCA Plan is not likely to jeopardize the continued
2 existence of any threatened or endangered species or to result in the destruction or adverse modification
3 of the critical habitat of any such species. 16 U.S.C. § 1536(a)(2);

4 WHEREAS, under Section 7 of the ESA, BLM must ensure that its adoption and implementation
5 of the CDCA Plan is not likely to jeopardize the continued existence of any threatened or endangered
6 species or to result in the destruction or adverse modification of the critical habitat of any such species;

7 WHEREAS, the parties would like to avoid unnecessary litigation of the need for an immediate
8 injunction prohibiting all activities which may adversely affect listed species.

9 THEREFORE, the parties agree as follows:

10 1. The BLM will prepare evaluation reports for all Areas of Critical Environmental Concern
11 ("ACEC") where threatened or endangered species are present or potentially present and where the
12 ACEC was designated for the management of biological resources. The primary purpose of these
13 "ACEC evaluation reports" is to determine whether BLM is allowing activities that are incompatible
14 with the protection of the resources the ACEC was designated to protect. The ACECs for which the
15 BLM shall prepare evaluation reports must include the following:

- 16 (A) Western Rand Mountains;
- 17 (B) Great Falls Basin/Argus Range;
- 18 (C) Amargosa River Natural Area;
- 19 (D) Grimshaw Lake Natural Area;
- 20 (E) Jawbone/Butterbread;
- 21 (F) Desert Tortoise Natural Area;
- 22 (G) Harper Dry Lake;
- 23 (H) Whitewater Canyon;
- 24 (I) Big Morongo Canyon;
- 25 (J) Chuckwalla Bench;
- 26 (K) San Sebastian Marsh/San Felipe Creek;
- 27 (L) Coachella Valley Fringe-toed Lizard Natural Area;
- 28 (M) North Algodones Dunes National Natural Landmark;

- 1 (N) Dos Palmas;
- 2 (O) Surprise Canyon;
- 3 (P) Yuha Basin ACEC; and
- 4 (Q) West Mesa ACEC.

5 Within 30 days of the signing of this agreement by the Parties, BLM, in consultation with the
6 parties, will develop a schedule for completing the ACEC evaluation reports. Any such schedule
7 developed will ensure that eight of the needed ACEC evaluation reports will be drafted within three
8 months, an additional seven within six months, and the final two within nine months of the date this
9 agreement is signed by the parties. The ACEC evaluation reports will include a review of the
10 implementation of ACEC plan actions and other resource management accomplishments. The ACEC
11 evaluation reports will also include a description of current or on-going conflicts between biological
12 resources and the currently allowed uses of the ACECs, and most importantly, will propose corrective
13 actions. The BLM will provide the parties an opportunity to comment on the draft ACEC evaluation
14 reports. BLM will finalize the evaluation reports sixty days after its receipt of any comments by the
15 Center. After the reports are finalized, the BLM will prepare a schedule, in consultation with the parties,
16 by which all proposed corrective actions will be implemented. BLM will make every effort to
17 implement the proposed corrective actions according to the schedule agreed upon by the parties.

18 2. The BLM will attempt to implement a multi-jurisdictional vehicle closure of Windy Point
19 in the Coachella Valley among all relevant governmental agencies, including the City of Palm Springs
20 and Riverside County. In any event, the BLM will maintain the emergency vehicle closure of all BLM
21 lands at Windy Point (specifically, BLM lands in T.3S., R.3E., SBM, sections 14, 22, 23, 24) that it will
22 close by Federal Register notice effective approximately January 15, 2001.

23 3. By March 1, 2001, the BLM will provide the Center with an analysis of threats to, and
24 recovery progress for, the desert pupfish at the Dos Palmas ACEC and at San Sebastian Marsh/San
25 Felipe Creek ACEC. By April 1, 2001, BLM will provide the Center with a written description of
26 interagency procedures for communication with and evaluation by the California Department of Fish
27 and Game of water management activities in the Dos Palmas ACEC that might affect stream flow in Salt
28 Creek. The BLM will continue its efforts to remove tamarisk in desert pupfish habitat. The BLM will

1 continue its efforts to acquire in-holdings in the Dos Palmas ACEC. By July 1, 2001, BLM will produce
2 an environmental assessment addressing the effects of removing exotic date palms at the Dos Palmas
3 ACEC including an analysis of effects on Yuma clapper rail. BLM will issue a decision record on the
4 environmental assessment by October 1, 2001.

5 4. The BLM will not authorize OHV competitive motorized events outside of designated
6 OHV open areas except for events passing through the Navy Parachute Range between the Plaster City
7 and Superstition Hills OHV Open Areas that comply with the Flat-tailed horned lizard conservation
8 strategy. The parties acknowledge that the provisions of this paragraph provide temporary management
9 direction and that all parties may continue to support more permissive or more restrictive competitive
10 event opportunities in ongoing BLM management processes. The parties agree that "dual sport" events
11 conforming with the existing biological opinion governing dual sport events are not restricted by this
12 paragraph.

13 5. The BLM will defer final route designations and will maintain the existing emergency
14 route network in the Ord Mountain area until the West Mojave Plan is completed. By February 1, 2001,
15 in consultation with the parties, BLM will develop a list of the routes to be rehabilitated and a
16 rehabilitation schedule. BLM will make every reasonable effort to implement the proposed
17 rehabilitation schedule.

18 6. By February 1, 2001, BLM will provide the Center with a list of burro management
19 activities undertaken in the last two years. In 2001, the BLM will place the highest priority of its burro
20 management program on the removal of burros in the habitat of threatened or endangered species. The
21 BLM will hire two monitoring specialists to conduct habitat evaluations in burro herd management areas
22 during 2001. By February 1, 2001, in consultation with the Center, BLM will develop a schedule for the
23 removal of burros from threatened or endangered species habitat. The schedule will provide measurable
24 objectives for burro removal to be accomplished by December 31, 2001. BLM will make every
25 reasonable effort to meet the objectives of the schedule.

26 7. BLM shall fence off the riparian area of the Mojave River in Afton Canyon from cattle.
27 Such fencing shall be completed by January 1, 2002. BLM may provide alternative livestock water
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sources outside of the riparian area. BLM shall prohibit the clearing of any native vegetation on public lands within one-quarter mile of the Mojave River except as necessary for restoration work.

8. In the Argus Mountains, BLM shall:

(A) For Wilderness Areas, notify the State of federal reservation of unappropriated water.

(B) For BLM lands outside of Wilderness Areas, investigate its authority to file, and pursue if authorized, state water rights applications to secure federal water rights for all springs. If authorized, during 2001, the BLM commits to file state water rights applications for at least 10 springs in the Argus Mountains. During 2002, the BLM commits to file state water rights applications for an additional 5 to 10 springs in the Argus Mountains. During 2003, the BLM commits to file state water rights applications for all remaining BLM land springs in the Argus Mountains.

9. To protect and recover the Cushenberry milkvetch (Astragalus albens), Cushenberry oxytheca (Oxytheca parishii var. goodmaniana), Parish's daisy (Erigeron parishii), and Cushenberry buckwheat (Eriogonum ovalifolium var. vineum), BLM shall:

(A) Coordinate with the U.S. Forest Service in the development of the Carbonate Habitat Management Strategy ("CHMS") planning process and begin implementation by June 1, 2001. BLM will cooperate with the U.S. Forest Service, the Center, and the California Native Plant Society on the implementation and monitoring of the CHMS.

(B) Take immediate action on any U.S. Forest Service application for mineral withdrawal in the San Bernardino Mountains to benefit threatened or endangered plants.

(C) BLM shall petition for mineral withdrawal of BLM lands in support of the CHMS to protect the habitat of these threatened or endangered carbonate endemic plants.

(D) The BLM shall not approve any new mining plans of operation or any expansion of existing mining plans of operations in the habitat of the threatened or endangered carbonate endemic plants that "may affect" the species.

10. By February 1, 2001, BLM will prepare and deliver to the parties a list of all activities that are likely to adversely affect threatened and endangered plants on BLM lands in the CDCA. Except for the Coachella Valley milkvetch, BLM will not authorize any new activities that may adversely affect

1 threatened and endangered plants on BLM lands in the CDCA until after the completion of consultation
2 on the plan amendments and final plan amendment for the portion of the CDCA that includes the plant
3 population.

4 11. To protect and recover the Coachella Valley milkvetch (Astragalus lentiginosus var.
5 cochellae), BLM will not allow any new activities within the Coachella Valley preserve system, or on
6 known milkvetch sites on BLM lands near the mouth of Whitewater Canyon and near Morongo Creek
7 that may adversely affect this species. In addition, for all known populations and habitat of the
8 Coachella Valley milkvetch on BLM lands, BLM shall manage the habitat of this species for
9 maintenance of hydrologic regime and sand sources.

10 12. To protect and recover the Lane Mountain milkvetch (Astragalus jaegeirianus), BLM will
11 retain all public lands containing populations of the Lane Mountain milkvetch, consistent with Ft. Irwin
12 expansion legislation of December 2000.

13 13. To protect and recover the Ash Meadows gumplant (Grindelia fraxinoprattensis) and
14 Amargosa niterwort (Nitrophila mohavensis), by February 1, 2001 BLM will initiate a study of water
15 needs to guarantee adequate water in perpetuity for these plants. By September 1, 2001, BLM shall
16 fence all significant populations of the niterwort and gumplant. BLM will cooperate with and seek the
17 advice of the California Native Plant Society, the Center, and the FWS on protection and recovery of
18 these plants. BLM will eliminate burros from the Chicago Valley Herd Management Area. BLM will
19 close all undesignated routes within the habitat of these plants pending formal route designation. BLM
20 shall, in consultation with the California Native Plant Society and the Center, develop an ACEC
21 management plan within the NEMO plan amendment process for the conservation and recovery of these
22 species. BLM shall coordinate these efforts with the appropriate offices of the BLM in Nevada and with
23 the FWS.

24 14. To protect and recover the Triple-ribbed milkvetch, (Astragalus tricarinatus), BLM will
25 pursue an avoidance strategy for this species wherever practical during pipeline maintenance and all
26 other activities within the Big Morongo ACEC. BLM will complete design and analysis of a route
27 restoration program for the Big Morongo ACEC by February 1, 2001. The design will include an
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1 implementation schedule. BLM will complete the implementation of the route restoration program by
2 June 1, 2002.

3 15. BLM will maintain a specialist with rare plant experience in its Ridgecrest, Barstow,
4 Palm Springs/South Coast, and El Centro field offices until the relevant regional plan(s) handled by each
5 field office is completed.

6 16. The Round Mountain cattle grazing allotment is currently in non-use. BLM shall not
7 authorize cattle grazing on the Round Mountain allotment.

8 17. The BLM shall ensure that construction of the east boundary fence on the Rattlesnake
9 Canyon cattle grazing allotment is started by January 17, 2001. BLM fire crews will work to construct
10 as much of this fence as possible between January 17, 2001 and April 15, 2001. The BLM fire crews
11 will return to work on this fence at the conclusion of the fire season and will then work until the fence is
12 completed. This boundary fence will exclude from grazing all identified populations of threatened or
13 endangered plants.

14 18. To protect the Inyo California towhee, BLM shall:

15 (A) Install vehicle barriers in the vicinity of Christmas, Nadeau, North Ruth and
16 Austin springs by July 1, 2001. These barriers will direct vehicle use and recreational use away from
17 riparian vegetation.

18 (B) BLM shall develop a list of springs that have unresolved burro or OHV conflicts
19 and a schedule for the installation of needed fencing, in consultation with the parties, by February 15,
20 2001. This schedule shall provide that the needed fencing shall be completed within one-year of the date
21 of the signing of this agreement by the Parties. BLM shall monitor and maintain these exclosures.
22 These fenced exclosures shall include an appropriate buffer around the springs that includes all present
23 and potential riparian habitat.

24 (C) BLM shall investigate the legality and effect of water diversions at Alpha Spring,
25 Bainter Springs, Surprise Canyon, and Hall Canyon by April 1, 2001. If any such water diversions are
26 determined to be illegal, BLM shall immediately take all necessary steps to terminate illegal water
27 diversions.

1 (D) BLM will work to improve habitat and scenic quality in the Great Falls Basin
2 ACEC. This work will include trash removal, relocation of campsites, reclamation and barricading of
3 hill climbs, restoration of OHV routes (to preclude vehicle use), and installation of an information kiosk.
4 This work shall be completed by June 30, 2001.

5 (E) In accordance with existing state and federal law, BLM shall restrict vehicle and
6 camping access near all accessible springs in the historic range of the Inyo California towhce within one-
7 year of the date of the signing of this agreement by the parties.

8 19. BLM shall conduct a survey by August 1, 2001, to determine if snowy plovers use BLM
9 lands for nesting at Koehn Lake, Searles Lake, Superior Dry Lake, Harper Dry Lake, or Cronese Lakes.
10 If snowy plover nesting sites are discovered, BLM shall restrict human use of the areas during the
11 nesting season (April 1 to August 1 each year), as necessary according to site specific needs. Outside
12 the nesting season BLM shall effect any appropriate closures around all snowy plover nest sites.

13 20. BLM will mandate the use of ethylene glycol free (wildlife safe) coolant in all BLM
14 maintained motor vehicles assigned to the California Desert District. BLM shall not allow the use of
15 ethylene glycol in rain-gauges. Use of ethylene glycol free coolant for BLM vehicles will become
16 mandatory within 60 days of the signing of this agreement. Within 90 days of the signing of this
17 agreement, BLM will begin recommending the use of ethylene glycol free coolant in all water-cooled
18 motorized vehicles participating in BLM permitted motorized events on the CDCA. BLM will require
19 all permit holders for motorized events to distribute educational materials recommending the use of
20 ethylene glycol free coolant to all event participants.

21 21. Concerning communications sites and facilities and power transmission and distribution
22 infrastructure (com sites and lines):

23 (A) BLM shall require installation of anti-perching devices on all new
24 communications sites and facilities (including microwave) within the CDCA. For all new com sites and
25 lines the NEPA documentation prepared shall include consideration of the applicable specifications or
26 guidelines in "Suggested Practices For Raptor Protection On Powerlines" (1996 edition), the FWS's
27 "Service Guidance on the Siting, Construction, Operation and Decommissioning of Communications
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1 Towers" (September 14, 2000), and all other Department of the Interior guidance related to
2 communication facility siting, operation, and maintenance.

3 (B) BLM shall require all reconstructed or re-permitted com sites or lines to be raptor-
4 safe. More specifically, reconstructed or re-permitted power lines which are not underground and
5 communication sites and facilities shall include the applicable specifications and guidelines in
6 "Suggested Practices For Raptor Protection On Powerlines" (1996 edition), the FWS's "Service
7 Guidance on the Siting, Construction, Operation, and Decommissioning of Communications Towers"
8 (September 14, 2000), and all other Department of the Interior guidance related to communication
9 facility siting, operation and maintenance. As existing permits for com sites and lines power line expire,
10 new permits will include the stipulation that these provisions are implemented within one year after
11 permit renewal.

12 22. For protection of southwestern willow flycatcher and least Bell's vireo from the effects of
13 on-going, authorized grazing:

14 (A) In coordination with FWS and USFS, the BLM will identify potentially suitable
15 habitat for southwestern willow flycatcher and least Bell's vireo in active grazing allotments. Using the
16 best available documentation, aerial photographs, and knowledge of field staff, the BLM will identify
17 these sites on maps by April 1, 2001. Field assessments of habitat suitability for these sites will be
18 initiated in April, 2001 and completed within two years.

19 (B) Those sites determined to contain suitable habitat for least Bell's vireo and
20 southwestern willow flycatcher will be surveyed in the next breeding season according to established
21 protocols.

22 (C) Where southwestern willow flycatcher and/or least Bells vireo are found breeding,
23 the BLM will evaluate the status of existing biological opinions from FWS with regard to the grazing
24 allotment. If necessary, consultation will be initiated or reinitiated. Until any such consultation is
25 completed, BLM will not allow grazing on BLM lands within three miles of the breeding location.
26 BLM will implement all terms and conditions of subsequent biological opinions and amend the CDCA
27 Plan, if required.

1 23. To benefit the Southwest Willow flycatcher and the Least Bell's vireo:

2 (A) BLM shall initiate surveys, consistent with the U.S. Forest Service/San
3 Bernardino National Forest protocols for these species in areas of high probability of occurrence,
4 including Big Morongo ACEC and Amargosa Canyon ACEC by March 1, 2001;

5 (B) If breeding or nesting areas for these species are discovered as a result of the
6 surveys referenced in subparagraph (A), BLM, in coordination with the Center, shall evaluate the
7 efficacy of a cowbird control program.

8 24. By April 1, 2001, BLM will prepare and deliver to the parties a list of all BLM
9 authorized activities that may adversely affect the following species: southwestern willow flycatcher,
10 least Bell's vireo, Yuma clapper rail, bald eagle, Amargosa vole, and arroyo southwestern toad.

11 25. BLM will not sell mineral materials in potential habitat for the arroyo southwestern toad,
12 triple-ribbed milk-vetch, and desert tortoise in and around Whitewater Canyon. This specifically
13 includes the community use pit.

14 26. By June 1, 2001, BLM will cause to be constructed at least 1/2 mile of fencing to protect
15 riparian habitat for the benefit of the southwestern willow flycatcher along Kelso Creek. This fence will
16 be approximately one-quarter mile from the edge of the riparian area to provide a buffer.

17 27. By March 1, 2001, BLM will develop, in coordination with the Center, and implement a
18 stipulation regarding roadside berm size and slope for graded roads on BLM lands that will be protective
19 of the desert tortoise. BLM will require right-of-way holders to change grading practices on BLM-
20 administered public lands to conform to this new stipulation. BLM will work with county governments
21 to encourage application of the stipulation to county maintained roads. BLM will implement the new
22 stipulation as soon as reasonably possible, and not later than September 1, 2001 on the Helendale, Fossil
23 Bed, Camp Rock, and Copper City roads.

24 28. BLM will close to shooting the areas within the route subregion polygons referenced in
25 paragraph 38 of this Stipulation, except for hunting and target practice at paper targets specifically
26 created for such purpose.

1 29. BLM will develop and provide to the Center a schedule for the cleanup of the Nipton
2 dump and the Route 66 dumps at Amboy, Chambliss, and Essex. This schedule shall provide that the
3 cleanup activities will be completed within one year of the signing of this agreement by the parties.

4 30. By March 1, 2001, BLM will amend its brochures and maps distributed to the public to
5 encourage camping only in previously disturbed sites.

6 31. BLM will require that all right-of-way holders schedule non-emergency pipeline
7 maintenance, involving the use of mechanized equipment, in desert tortoise critical habitat between June
8 16 and September 6 and/or November 8 and February 28. This provision does not apply if the
9 maintenance activity receives a site-specific biological opinion.

10 32. BLM shall issue a Record of Decision ("ROD") regarding route designation on NECO by
11 January 31, 2002, on NEMO in tortoise DWMA's by January 31, 2002, in the Coachella Valley by June
12 30, 2002, on the West Colorado by January 31, 2002, in the West Mojave by June 30, 2003, and all
13 remaining areas in the CDCA by June 30, 2004.

14 33. BLM will not authorize any new mining plans of operations or expansions of existing
15 mining plans of operations in excess of two acres per operation, not to exceed 20 acres cumulatively for
16 all operations, in the critical habitat of threatened or endangered species or in occupied habitat for those
17 species where critical habitat has not been designated.

18 34. BLM will only consider land exchanges or disposals involving threatened or endangered
19 species habitat or potential habitat if it benefits the affected species. BLM will provide the Center with
20 at least 90 days notice of any such proposed land exchanges or disposals. In accordance with the
21 California Statewide Desert Tortoise Policy, no Category I desert tortoise habitat will be transferred out
22 of public ownership, and exchanges involving disposal of Category II desert tortoise habitat will only be
23 allowed if an equivalent or greater amount of Category I or II habitat is acquired and habitat
24 manageability is enhanced.

25 35. By February 1, 2001, BLM will develop and provide to the Center an initial list of known
26 sites needing removal of tamarisk and other invasive exotic plants. By March 1, 2001 BLM will submit
27 to the Center a plan, including a schedule, to address these needs. BLM will make every reasonable
28 effort to implement this plan according to the schedule developed.

1 36. As part of the West Mojave bio-regional plan amendment, BLM shall make a Wild and
2 Scenic River eligibility determination for the Mojave River. This eligibility determination will include
3 an evaluation of the possibility of restoring the Mojave River to a more natural state capable of
4 supporting re-introduction of the Mojave tui chub.

5 37. BLM will participate in a public education campaign effort in coordination with the
6 California Department of Fish and Game ("CDFG"), FWS, U.S. Forest Service, and the Center to
7 promote the use of non-lead shot/bullets for hunting throughout the CDCA. This public education
8 campaign will begin by June 1, 2001. The public education campaign will include working with county
9 hunting commissions and the CDFG to produce educational materials for distribution to hunters and the
10 general public. These educational materials will urge hunters and other shooters to switch to non-lead
11 shot/bullets to avoid poisoning wildlife. The public education campaign will also include an
12 opinion/editorial signed by BLM and distributed to all major newspapers in Southern California, and the
13 Sacramento Bee and San Francisco Chronicle, and a BLM produced brochure promoting the use of non-
14 lead shot/bullets for hunting throughout the CDCA to be on public display and available at all BLM
15 offices in the CDCA.

16 38. BLM shall implement an emergency road closure in the West Mojave Plan Area in the
17 following five route subregion polygons: Fremont, Kramer, Red Mountain, Newberry/Rodman, and
18 Superior. BLM shall propose an emergency closure network of routes and rationale documents for each
19 of the five polygons. The first polygon proposal shall be submitted within 30 days of the signing of this
20 Stipulation by the parties, and an additional polygon proposal will be submitted every 45 days thereafter
21 until all five polygon proposals have been submitted. Each proposal will be available for public review
22 for a period of 90 days. Within 30 days of the completion of each public review period BLM will
23 publish an emergency closure notice effecting the emergency route network for the applicable polygon.

24 39. To stop unauthorized OHV incursions in the following wilderness areas, wilderness study
25 areas, ACEC's, and other limited use areas, BLM, will by April 1, 2001, prepare reports detailing plans
26 to stop the unauthorized OHV entry in the:

27 (A) Jacumba Wilderness

28 (B) Soda Mountains WSA

- 1 (C) Cady Mountains WSA
- 2 (D) Grass Valley Wilderness
- 3 (E) Golden Valley Wilderness
- 4 (F) Kingston Range Wilderness
- 5 (G) Palen-McCoy Wilderness(H) West Rand ACEC (specifically addressing R 6)
- 6 (I) Orocopia Wilderness
- 7 (J) Chuckwalla ACEC
- 8 (K) Great Falls ACEC
- 9 (L) Butterbread ACEC
- 10 (M) Desert Tortoise Natural Area (specifically addressing R 10)
- 11 (N) San Felipe Creek/San Sebastain Wash
- 12 (O) Coyote Mountains Wilderness
- 13 (P) West Mesa ACEC
- 14 (Q) West Cronese Lake
- 15 (R) Silver Dry Lake
- 16 (S) Kingston Wash
- 17 (T) Sage Canyon, and
- 18 (U) Happy Canyon.

19 Once the above reports are prepared, BLM will, in coordination with the Parties, develop an
20 implementation schedule and make all reasonable efforts to implement the plans designed to prevent
21 unauthorized OHV activity.

22 40. BLM will implement an emergency route designation by Federal Register notice
23 publication at Edwards Bowls and in the Helendale/Silver Lakes area by March 1, 2001.

24 41. At Juniper Flats, BLM will retain in place the existing emergency route network, but may
25 complete limited route designations as areas recover from the recent fire.

26 42. BLM will implement an emergency route designation by Federal Register notice
27 publication in the Chemehuevi Wash by March 1, 2001. The following routes will be designated
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1 closed: 517, 522, 531, 532, 533, 534, 536, 537, 538, 540. Routes 523-528 will be closed except to
2 persons holding valid mining claims accessible only by these otherwise closed routes.

3 43. BLM will implement, via emergency closure published in the Federal Register, all wash
4 closures as identified in the preferred alternative in the NECO Plan by March 1, 2001.

5 44. Within 45 days of the signing of this agreement by the parties, BLM will consult with the
6 U.S. Forest Service to consider appropriate means to protect riparian and other resource values at
7 Furnance Creek and Birch Creek. If the BLM cannot reach an agreement with the U.S. Forest Service
8 on the appropriate course of action to protect riparian and other resource values in these areas within 45
9 days, the BLM will close, via emergency closure, the final mile of Furnance Creek on BLM land and the
10 final half mile of Birch Creek on BLM land. These closures or other protective action agreed to with the
11 Forest Service shall remain in effect until route designation is completed for this area.

12 45. BLM shall, within 30 days of the signing of this Stipulation by the parties, implement,
13 via emergency closure published in the Federal Register, a camping closure on BLM lands in the
14 vicinity of the Algodones Dunes within the following area: (a) beginning at the intersection of Highway
15 78 and the railroad tracks, proceeding southeasterly along the railroad tracks to their intersection with
16 Ogilby Road (S34), proceeding north and east along Ogilby Road (S34) to its intersection with Highway
17 78, proceeding southwest along Highway 78 to its intersection with the railroad tracks, the point of
18 beginning, and (b) beginning at the intersection of Highway 78 and the railroad tracks, proceeding
19 northwesterly along the railroad tracks to Acolite, proceeding due east to the boundary of the Chocolate
20 Mountains Aerial Gunnery Range, proceeding along the boundary of the Chocolate Mountains Aerial
21 Gunnery Range to the Mesquite Mine, proceeding due south to Highway 78, proceeding west along
22 Highway 78 to the railroad tracks, the point of beginning.

23 46. By February 15, 2001, BLM shall institute an emergency closure, via Federal Register
24 notice publication, to motorized vehicle access in Surprise Canyon. By May 1, 2001 BLM shall install a
25 locked gate in the vicinity of the south ½ of section 14 to block vehicle access to the canyon. As soon as
26 practicable, but no later than July 1, 2001, BLM shall, following completion of public scoping,
27 completion of an NEPA document, and concurrence of the California Desert District Office, issue a
28 decision document. The NEPA document shall evaluate a full range of options for management of

1 human access to the area in Surprise Canyon beyond the gate. The decision document shall determine
2 the nature or conditions under which such access, if any, will be allowed. Individuals owning private
3 property in the vicinity of Panamint City shall not be subject to the restrictions of this paragraph. Any
4 keys to any gate installed in Surprise Canyon under this paragraph will include the following security
5 features:

6 (A) Keys cannot be duplicated by any one other than the manufacturer of the lock
7 (patented system for which locksmiths do not possess key banks);

8 (B) Keys are sequentially numbered thereby providing for tracking efficiency;

9 (C) The locks for the gate will constitute a stand alone system which will not interface
10 with the commonly used BLM lock system;

11 (D) The key and lock system used on the gate will be such that keys will be retained
12 in the locking mechanism until the padlock is secured in the closed position; and

13 (E) The locks will be secured to the gate by a chain.

14 47. Defendant-Intervenors, having attained party status in the remedial phase of this action
15 primarily to address OHV interests, did not participate in the negotiation of and take no position
16 regarding the following paragraphs to this Stipulation: 3, 6, 7, 8, 9, 11, 12, 13, 14, 15, 16, 17, 18(C), 21,
17 22, 23, 25, 26, 27, 28, 29, 30, 31, 33, 34, 35, 36, and 37.

18 48. This Stipulation shall not be construed as an admission of liability by Defendant, BLM,
19 nor shall it be construed as assent by Defendant-Intervenors to any factual statement or implication
20 contained in or inferred from this Stipulation, including, but not limited to, acknowledging that there is
21 an adequate factual basis for any of the emergency actions contemplated by this Stipulation.

22 49. To the extent this Stipulation contemplates future BLM management actions to be
23 determined through processes described herein, including, but not limited to, emergency closures and
24 route designations, assent to this Stipulation shall not preclude any party hereto from challenging BLM
25 action or inaction in accordance with applicable law.

26 50. The Center and BLM agree that the terms of this Stipulation are enforceable. BLM
27 represents that it intends to make every effort to comply with its terms in good faith. If, however,
28 through unforeseen circumstances, events should change after the agreement is executed, BLM will

1 notify the Center as soon as reasonably possible of the change and the reason therefore. The parties
2 agree to attempt to work reasonably toward a mutually acceptable solution. If the parties are unable to
3 agree, the Center reserves the right to seek injunctive relief with regard to the issue in question.

4 51. As indicated in the paragraphs describing interim measures, the interim measure shall
5 remain in effect until:

6 (A) For paragraphs 1, 4, 16, 19, 20, 21, 30, 33, 34, and 35: The receipt of the last
7 biological opinion on the effects of the CDCA Plan on currently listed species and the implementation of
8 any applicable terms and conditions, reasonable and prudent alternatives, and/or reasonable and prudent
9 measures requiring implementation;

10 (B) For paragraphs 9(D) and 10: The receipt of the biological opinion on the effects
11 of the CDCA Plan on threatened and endangered plants and the implementation of any applicable terms
12 and conditions, reasonable and prudent alternatives, and/or reasonable and prudent measures requiring
13 implementation;

14 (C) For paragraphs 27, 28, and 31: The receipt of the biological opinion on the effects
15 of the CDCA Plan on the desert tortoise and the implementation of any applicable terms and conditions,
16 reasonable and prudent alternatives, and/or reasonable and prudent measures requiring implementation;

17 (D) For paragraphs 22(C) and 25: The receipt of the biological opinion on the effects
18 of the CDCA Plan on the species referenced in the Paragraph and the implementation of any applicable
19 terms and conditions, reasonable and prudent alternatives, and/or reasonable and prudent measures
20 requiring implementation;

21 (E) For paragraphs 3, 6, 8, 14, 15, 18(D), 22(A)&(B), 24, 29, 32, 44, and 46: At the
22 date or dates stated in the paragraph;

23 (F) For paragraphs 5, 7, 12, 17, 18(A),(B)&(E), 26, 36, 38, 40, and 41: The signing
24 of the record of decision (ROD) for the West Mojave bio-regional plan amendment;

25 (G) For paragraphs 2 and 11: The signing of the record of decision (ROD) for the
26 Coachella Valley bio-regional plan amendment;

27 (H) For paragraph 13: The signing of the record of decision (ROD) for the Northern
28 and Eastern Mojave (NEMO) bio-regional plan;

1 (I) For paragraphs 42, 43, 45: The signing of the record of decision (ROD) for the
2 Northern and Eastern Colorado Desert (NECO) bio-regional plan; or

3 (J) For paragraphs 9(A),(B) & (C), 18(C), 23, 37, 39: The actions necessary to
4 implement the corrective action are completed.

5 52. This Stipulation shall not be interpreted or construed as an admission by any of the
6 parties of any claim or defense in this litigation.

7 53. Nothing in this Stipulation shall be interpreted or construed as a commitment or
8 requirement that BLM or any other federal agency obligate or pay funds in contravention of the Anti-
9 Deficiency Act, 31 U.S.C. § 1341, or any other applicable provision of law.

10 54. Unless specifically noted otherwise, the terms of this agreement shall apply only to BLM
11 lands within the California Desert Conservation Area.

12 55. Any interim measure that BLM has agreed to take pursuant to this agreement shall not be
13 deemed a requirement of any subsequently issued biological opinion, unless such measure is
14 incorporated by FWS into one or more biological opinion(s) resulting from consultation on effects of the
15 CDCA on listed species.

16 56. In complying with the terms of this agreement, BLM shall be subject to all applicable
17 federal statutes or regulations, and nothing in this agreement shall be construed to require BLM to take
18 any actions in contravention of any such applicable statutes or regulations.

19 57. In consideration of the actions to be taken by BLM, the Center agrees that it will not seek
20 injunctive relief through this litigation so long as BLM complies with the terms of this stipulation and all
21 other stipulations entered into in this litigation. Nothing in this Stipulation shall be construed so as to
22 prevent the Center from challenging any action in the CDCA for reasons other than BLM's failure to
23 consult on the CDCA Plan.

24 58. This Stipulation is effective immediately upon its signature as an agreement among the
25 signatories and is further effective as an Order of the Court upon its approval and entry as an Order by
26 the Court.

FOR PLAINTIFFS:

Dated: _____

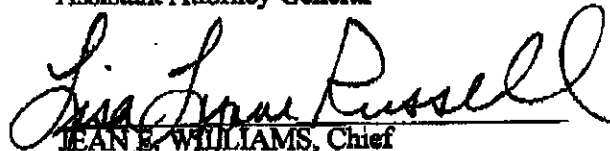
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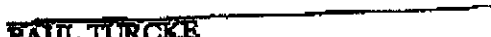
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STIPULATION AND PROPOSED ORDER
 CONCERNING ALL FURTHER
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DOJ-WILDLIFE SECTION

0018/020

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